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HOUSE BILL NO. 1141

Offered January 25, 1994

A *BILL to amend the Code of Virginia by adding a section numbered 8.01-38.2, and to repeal § 8.01-38.1 of the Code of Virginia, relating to punitive damages; limitation.*

Patron—Cohen

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 8.01-38.2 as follows:****§ 8.01-38.2. Determination of amount of punitive damages.**

A. *In determining the amount of punitive damages, the trier of fact shall consider all relevant evidence, including:*

- 1. The severity of the harm caused by the defendant;*
- 2. The extent to which the plaintiff's own conduct contributed to the harm;*
- 3. The reasonableness of the relationship of the punitive damages award to the harm done by the defendant and the harm that is likely to result;*
- 4. The duration of the conduct, the defendant's awareness of it, and any concealment of it by the defendant;*
- 5. The profitability of the conduct to the defendant and the desirability of removing that profit and of having the defendant also sustain a loss;*
- 6. The costs of litigating the case;*
- 7. Awards of compensatory and punitive or exemplary damages made to persons similarly situated to the plaintiff;*
- 8. Prospective awards of compensatory damages to persons similarly situated to the plaintiff;*
- 9. Any criminal penalties imposed on the defendant as a result of the conduct complained of by the plaintiff; and*
- 10. The amount of any civil fines assessed against the defendant as a result of the conduct complained of by the plaintiff.*

B. *In determining the amount of punitive damages, the trier of fact shall not consider the wealth or financial condition of the defendant, but such evidence may be considered by the trial and appellate courts in determining whether the award is excessive.*

C. *If a verdict is rendered awarding punitive damages, the trial court shall carefully review the decision of the trier of fact, considering all relevant evidence, including the factors identified in subsection A, to ensure that the award does not exceed an amount necessary for the sake of example and to punish the defendant. The trial court shall reflect in the record the reasons for interfering with a jury verdict, or refusing to do so, on grounds of excessiveness of damages.*

INTRODUCED

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